

THE HAWAIIAN GAZETTE

RODERICK O. MATHESON, EDITOR

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THE ADVERTISER'S SEMI-WEEKLY

GERMANY AND THE UNITED STATES--THE CASE REVIEWED

IN VIEW of the German reply, which has been forecasted by a number of American writers and practically responded to in advance, The Advertiser submits the following, written by Albert E. Pillsbury, former attorney general of Massachusetts and now lecturer on constitutional law at the Boston University Law School, as the law in the case of the sinking of the Lusitania and the various other activities of the belligerent Powers in their blockades and war zones. The article was written two weeks ago, shortly after the Lusitania was submerged.

"The development of a sound and dispassionate public opinion upon the relations of the United States with Germany, and incidentally with Great Britain, depends upon an accurate knowledge of the controlling facts and principles which go to make up the substance of the existing situation," writes the American lawyer-author.

"They are comparatively few, but in the public discussions of the subject some of them are more or less overlooked or misstated in the heat of an excitement natural under the circumstances, but liable to impair the judgment of men and of newspapers.

"The whole controversy, originating at different points, centers about Germany's war-zone policy, under which the Lusitania was destroyed. The Falaba case is the same as that in principle, and may be regarded as merged in the greater affair of the Lusitania. The cases of the Cushing and the Gulfight, in which American vessels, under their own colors, were directly attacked, while more serious in their international aspect even than the case of the Lusitania, are still open to explanation or disavowal by Germany, and so do not, in strictness, enter into the merits of the case as it now stands.

"The situation is peculiar, in that Germany seeks to justify her conduct toward the United States by holding us responsible for alleged misconduct of Great Britain, especially in attempting unlawfully, as she says, to cut off food supplies from Germany, which, she says, we could and should have prevented; and it is complicated to some extent, though not materially, by the fact that the principal issues arise out of new methods of maritime warfare, especially in the use of mines and submarines, upon which the law of nations has not hitherto been brought to bear, and for one reason or another, not controlling. As this is really the source of the whole trouble, and as each power is now avowedly pursuing a policy of retaliation against alleged unlawful practices of the other, it is interesting, and perhaps necessary, to go back and see which was first to overstep the accepted laws and usages of war, in other words, who began it.

"It early became evident that Germany would seek to recoup herself against the superior naval power of Great Britain by extensive use of mines and submarines, for which apparently she was better equipped than her enemy. To mine the open sea has never been recognized as permissible by international law. It is directly forbidden by the eighth Hague convention of 1907, though this is not binding as an express compact in the present war, as all the belligerents do not appear to have come into it. It is, however, declaratory of the previously accepted rule. Germany is a party to this convention, and it is significant that she withheld her consent from Article 2, which forbids the laying of mines off an enemy's ports or coast for the sole purpose of intercepting commercial shipping.

"As to submarines, the use which has been made of them against merchant shipping, even of the enemy, cannot be made to square with the laws of war. It is a fundamental rule that no neutral merchant ship can be interfered with except first for visit and search, nor any ship, enemy or neutral, destroyed except in case of necessity and that in every case all human life on board must be safeguarded. To force a ship's company, over the side without boats or into a stormy sea, at any distance from a port or shore, would not fulfill the requirements of the law; they must be rescued. To destroy a merchant ship, even of the enemy, without warning, cannot be regarded in law otherwise than as a piratical act. The submarine, being unable to take off and deliver a ship's company, or even to take lawful possession of prizes by a prize crew, is, as our government justly intimates in its note of May 13, practically incapable of lawful use against merchant shipping; and until the law of nations is changed, to say nothing of the laws of humanity, must be confined, unless in exceptional instances where it might take a capture into port, to operating against enemy ships of war.

"As early as August 10 Great Britain ordered fishermen off the North Sea as dangerous. She has since denied that she had then laid any mines and the contrary has not been claimed. On the other hand, Great Britain publicly declared, in the memorandum to the United States of March 15 that 'At the very outset of the war a German mine layer was discovered laying a mine field on the high seas.' Further mine fields have been laid without warning. The same memorandum denies that Great Britain has laid any except anchored mines, and no mines whatever were laid by the British authorities till many weeks after the Germans had made a regular practice of laying mines on the high seas. Neither of these statements was publicly denied by Germany.

"Subsequent mining and submarine activities need not be followed in detail. It will not be difficult to draw from the foregoing facts a correct inference as to which power is primarily responsible for what has followed.

"About the end of the year the German government took over all food supplies. A little later Great Britain exercised the right reserved by her in the Declaration of London to extend the contraband list by declaring food products contraband, noting the fact that the German state had taken all food supplies to its own use. It has been a ground of complaint by Germany against us that we did not interfere to prevent this or stop it. It

is unusual, it is not wholly unknown, to treat foods as contraband of war. It is difficult to see that Great Britain was not within her rights, or that she needed the justification that the German government had taken over to itself the food supply. To subdue the enemy by starvation is one of the recognized methods of legitimate warfare. However this may be, we have nothing to do with the operations of these Powers against each other, and this and other similar episodes are mentioned only that it may be seen whether Germany's complaint of our action was justified. We had no power to prevent Great Britain's action, and it is at least doubtful if we had any right to object to it. We could, no doubt, have brought pressure to bear against it by an embargo upon our trade with her or otherwise. Not only were we under no obligation to do this, but it would have been a breach of neutrality.

"February 4 Germany proclaimed her war-zone policy, in substance that all enemy merchant ships in the waters surrounding Great Britain and France would be destroyed, at sight as it turned out, even if it is impossible to avert dangers which threaten the crew and passengers, with a broad intimation that neutral ships were liable to share the same fate. This decree was, on its face, an attempt to cut off the world's trade from Great Britain, as she was isolating Germany, and as obviously it could not be executed by the German navy, to terrorize the world into compliance by threatening destruction by invisible agencies, the mine and submarine, to all merchant ships approaching or leaving British ports. It is impossible to doubt that an incidental purpose was to embroil the neutral nations, especially the United States, in trouble with Great Britain, or to overlook the fact that Germany was thus deliberately seeking to gain a compensating advantage for her inferiority on the sea by methods outside the pale of legitimate war. Indeed this is practically confessed in the diplomatic correspondence and sought to be justified on the ground of necessity. This policy has now culminated, after the destruction of many other inconspicuous ships and lives, in the Lusitania tragedy.

"It was charged by Germany, in justification of the war-zone, that British merchant vessels were using neutral flag, and were armed against submarines. Doubtless Germany has not forgotten that the Lusitania went up the Irish sea in February under the American flag, but of this it is at present enough to say that long before her destruction she had been stripped, at our instance, of such slight armament as she ever carried, and when attacked bore her own colors, in broad daylight, plainly open to view.

"The international character of the war-zone proceeding is no longer, if it ever was, open to discussion. In the coldest legal view it amounted to a declaration of war upon the commerce of the world. It was conceived in violation of the plainest international obligations, and is now executed by acts which the law would stigmatize as piracy and murder but for the single circumstance that they are done under the authority of a sovereign nation.

"March 13 Great Britain, in pursuance of her policy of isolating Germany, and as a further avowed measure of retaliation against the methods by which Germany was conducting the war, declared a blockade, by cordon, of the German coast. This was an innovation in the law of nations, which remains to be justified. A fundamental rule of blockade is that it must be made effective, and, as heretofore practiced, by barring each blockaded port at its mouth. This cannot be done where mines and submarines are active, and so Great Britain attempts a blockade by drawing a cordon of ships about the enemy's coast outside the immediate field of mine and submarine activity. As the law of nations is an evolution from their practices, which change from time to time with the progress of events, if Great Britain can make her blockade good she may have effected a modification of the law which may ultimately be accepted. It is liable seriously to affect neutral trade. Our protest against it was much more than formal, and it fulfilled an obligation of ours to Germany in the premises.

"Germany has urged as another grievance against us that we are supplying Great Britain and the allies with arms and ammunition as well as food. Whatever may be said of the ethical aspect of our position, it is strictly within the rights of neutral trade, and, moreover, an embargo upon this traffic would be a breach of neutrality for which the allies could be held to account. The trouble with Germany is that her own ox is gored. Her navy is not strong enough to protect her own commerce, while that of Great Britain is, and so her supplies are cut off, while her enemy's remain free. We are in no degree responsible for this. If merchant ships were finding easy access to German ports, under protection of an adequate navy, this complaint would not be heard of, and Germany would be one of our largest customers.

"Looking at the course of Germany's maritime operations in perspective, it is impossible not to see the due to the labyrinth of difficulties—it is unnecessary to stigmatize them by epithets which suggest themselves—in which she has involved herself. It is in our desperate determination to 'get even' with Great Britain for the superiority of her navy. As she could not hold her own with Great Britain in open warfare on the open seas, nor otherwise deprive her of the legitimate advantages of her naval supremacy, she has done—what she has done.

"At one point, and one only, does Germany's conduct appear to show favorably by that of Great Britain, and this is more apparent than real. February 20 we proposed by identical note to both powers, as a modus vivendi, that each should cease the use of neutral flags, floating mines anywhere or anchored mines on the high seas, or submarines except to enforce visit and search, and that American foods for Germany should be delivered there by American agents to non-combatants only. To this Germany gave March 1 a qualified acceptance, expressly declining, however, to forego the use of anchored mines at sea. Great Britain replied March 15 with many charges of irregularity against Germany, declining the proposal principally upon the ground of Ger-

many's refusal to cease the mining of the high seas, or as it was understood, the sinking of merchant ships by submarines. These equivocal answers are a large fly in the German amber, and the reader may readily determine for himself the good faith of the respective replies. It is only necessary here to say that if Germany is, or is likely to be in any danger of shortage of food, our proposal was more for her interest than for that of Great Britain.

"If Germany is over the line of the law, it cannot be said with confidence that Great Britain is wholly within it. She has invaded neutral trade to an extent hitherto unacknowledged, if not unknown, by her reservations out of the Declaration of London have reached if not exceeded the limit of her rights; and her blockade by cordon is still of doubtful legality. There remains one line of distinction, clearly discernible throughout the whole sequence of events, between her conduct and that of her enemy. With respect to neutrals and non-combatants, Great Britain at the most invades only property rights. Germany makes war indiscriminately upon men, women and children. Great Britain has engaged to pay compensation for all injuries to property, has solemnly promised to safeguard human life under all circumstances, has directed the fire of no submarine at a merchant ship, and no dead babies strew the sea in testimony to her theory of war. What Germany has done is known—and the contrast will determine the judgment of the world."

Governor Pinkham is to be congratulated upon his selection of Col. Sam Johnson as adjutant general of the national guard, while the Territory and the guard are to be congratulated upon Colonel Johnson's acceptance of the position. The fact that Colonel Johnson, to give his services to the Territory, will necessarily resign from a position that carries double the salary attached to the adjutant generalship should not be overlooked. It indicates that it is the desire to serve and not the desire to draw the salary that impels the prompt acceptance by Johnson.

There is a silver lining to every cloud. The lower class liquor dealers of Honolulu are complaining that the prevalence of che-fa gambling games, running wide open and unrestricted, is seriously interfering with their business. The consumption of square face and cheap wine has dropped fifty per cent and the money is going into guesses whether monkey or makai nui will be the winning word. Incidentally the poi men and the fish dealers have the same complaint as the booze dealers, which is not such a happy thing.

Prohibition in Norway

THE prohibition movement in Norway has received some impetus as a result of the war, and while there is no clear indication of what the effect will be, there are a number of interesting phases of the situation in that country.

Since the prohibition movement was started there seventy years ago the consumption of strong liquor is shown statistically to have diminished gradually from ten quarts of 100 per cent alcohol per capita in 1843, to 1.56 quarts in 1890. Laws regulating the manufacture and sale of strong liquors (agvayit, brandy and whiskey) have made it more and more difficult to obtain these drinks, and, according to the law of 1894, no sale or no saloons are allowed in the rural districts. In the cities, the sale of liquor in saloons or restaurants is done by stock companies which get their license by municipal voting. These companies are allowed only five per cent interest on their capital, the remainder of the profits going to the state, the city, or philanthropic institutions. Beer and wine, in bottles, may be sold by any grocer. The sale of all intoxicants, however, is suspended everywhere during holidays.

The legislature has gradually raised the duty on imported liquor, and has fixed a high revenue on native distillation, and also on beer with an alcoholic percentage of over three and one-half.

Under these laws sobriety has generally increased. The restricted sale of liquor, however, has driven the lower classes of the population to the use of denatured alcohol, from eau de cologne, ether and shellac, and in many industrial centers and in "dry" towns, "blind pigs" have replaced the licensed sale.

When the war broke out the government ordered a temporary suspension in liquor manufacture and sale but this resulted in large individual importations of whiskey and brandy from Great Britain and Denmark, even laborers clubbing together to get an occasional consignment. The restrictions gradually have been raised, and with this the movement for total prohibition has been put forward again.

There is a bill now under consideration, providing for a popular referendum upon bills passed or rejected by the legislature, and if this is made a law at the next session of parliament, it will be left to the people to decide the prohibition issue.

SAMUEL JOHNSON
APPOINTED HEAD
NATIONAL GUARD

M. S. S. MANCHURIA, May 28, 1915. Governor Pinkham, Honolulu: Accept appointment as adjutant general with great appreciation. Sam Johnson.

This wireless message, received yesterday by Governor Pinkham from Col. Samuel Johnson, N. G. H., now aboard the Manchuria on his way to the Orient, closed the much-discussed question of who was to succeed Col. J. W. Jones as adjutant general of the National Guard of Hawaii.

Governor Pinkham made the appointment the moment the wireless was received. That Colonel Johnson would be appointed was forecasted in The Advertiser two weeks ago. The Governor told The Advertiser very recently that he was not in a position to say whom he would appoint or when the appointment would be made. On May 25—Tuesday of this week—the Governor wirelessed aboard the Manchuria, which left Honolulu last Saturday morning for the Orient, to Colonel Johnson: "Have appointed you adjutant general, effective about September 1. Wireless acceptance."

Return in August. Colonel Johnson's term of office is for four years from September 1. The new head of the National Guard expects to return late in August. Colonel Jones, whose commission expired on April 1, will remain in office until his successor qualifies. At that time it is believed that Colonel Jones will be placed on the retired list. The position of adjutant general pays \$3000 a year.

Colonel Johnson is no stranger to the National Guard. He was connected with it as an officer for fifteen years, leaving the guard in 1908. He enlisted as a private in 1893, the organization being then known as the "Citizens' Guard of Hawaii." When he retired in 1908 he had reached the rank of colonel of the First Regiment. He was captain of Company F in 1900, and in 1907 was made lieutenant colonel, a month later being promoted to colonel, holding the post from April 15 of that year until June 5 the year after, when he resigned.

For some years past Colonel Johnson has been manager of the Hawaii Hardware Company, at Pahoa, Hawaii, where he has also been acting as postmaster. Colonel and Mrs. Johnson are social favorites, both on the Big Island and in Honolulu. Jones Makes Statement.

Colonel Jones, the retiring adjutant general, last night handed to The Advertiser the following statement:

"So many friends have inquired as to why I am retiring from the National Guard, I make the following statement: 'On May 1, 1915, Governor Pinkham wrote me a note stating: 'When I receive your resignation dated May 5, subject to my acceptance, which I hope never to exercise, your appointment as adjutant general will be made.' My note of May 4, 1915, in reply, stated in part:

"My integrity and honor are the property not alone of myself, but of my family, and I have no right to give them into the keeping of another; therefore I cannot permit myself to comply with your suggestion. However, should you see fit to reappoint me and thereafter desire my removal, and request a resignation on grounds which do not involve or reflect upon my integrity or honor, you may have it."

"On May 27, 1915, I was informed by Governor Pinkham that he would reappoint me, and that he would appoint no one to the office without first receiving a resignation subject to his acceptance."

"J. W. JONES."

WINNING TEAMS IN
COAST LEAGUE GAMES
SCORE MANY TALLIES

(Associated Press by Federal Wireless.)

PORTLAND, May 29.—Portland had little trouble winning from the Seals here yesterday, hammering Wolverton's boxmen to all corners of the lot. Score—Portland 13, San Francisco 3.

At San Francisco, the Tigers put the wood against the ball again, gave the Oaks' pitchers a merry lacing. Score—Venice 10, Oakland 3.

At Salt Lake, Blankenship's men won a hard-hitting game on their part from the Angels. Score—Salt Lake 12, Los Angeles 4.

FORTY CARS TO ENTER
SPEEDWAY AUTO RACE

(Associated Press by Federal Wireless.)

INDIANAPOLIS, May 29.—With many of the best American and foreign make automobiles, piloted by crack drivers, facing the starter today at the Speedway in the annual 500-mile race, records are expected to go by the board.

Dario Resta, winner of the Grand Prix and the Vanderbilt cup at the Panama-Pacific Exposition, recently, is an entry, and so are Ray E. Palma, Barney Oldfield, Harry Pallen, Eddie Grant, Rockett and Hughes.

Two men were arrested by detectives yesterday charged with violating Section 622, revised laws, which prohibits killing fish with explosives. The men were Kanaana and John Kane. The penalty is from \$25 to \$100 fine or not to exceed six months' imprisonment or both.

Honolulu Wholesale Produce Market

ISSUED BY THE TERRITORIAL MARKETING DIVISION May 27, 1915.

Wholesale Only. BUTTER AND EGGS. Eggs scarce, nothing good. Island tub butter, lb. 29 to 30. Fresh island eggs, doz. 35. Duck eggs, doz. 23.

POULTRY. Demand good for fat young poultry. Broilers, lb. 2 to 3 lbs. 35 to 37 1/2. Young roosters, lb. 32 1/2 to 35. Hens, good condition, lb. 35. Turkeys, lb. 35. Ducks, Muscovy, lb. 25 to 30. Ducks, Peking, lb. 25 to 30. Ducks, Hawaiian, doz. 5.40.

VEGETABLES AND PRODUCE. Beans, string, green, lb. .02 to .02 1/2. Beans, string, wax, lb. .02 1/2 to .03. Beans, lima in pod, lb. .03. Beans, Dry. Mani Red (none in market). Beans, Calico, ewt. 4.00. Small White, ewt. 3.50. Corn, dried, ewt. 4.00 to 4.20. Beans, doz. bunches 40. Cabbage, tag, 85 to 1.00. Corn, sweet, 100 ears, 1.25. Corn, Hawaiian, small yellow (none). Corn, Hawaiian, large yellow (none).

FRUITS. Alligator pears, doz. 25 to 75. Limes, string, bunch. 20 to 50. Bananas, cooking, bunch. 75 to 1.00. Breadfruit (none in market). Pine (none in market). Grapes, Isabella, lb. .11. Oranges, Hawaiian, 75 to 1.00.

LIVESTOCK. Beef, cattle and sheep are not bought by weight, dressed, at live weights. They are taken by the Hogs, up to 150 lbs., lb. 10 to 11. Great companies, dressed, and paid for Hogs, 150 lbs. and over. 10 to 10.

DRESSED MEATS. Beef, lb. 11 to 12. Pork, lb. 11 to 12. Veal, lb. 12 to 13. Mutton, lb. 14 to 15.

HIDES, Wet Salted. Sheepskins, each 10 to 20. Goatskins, white, each 10 to 30.

FEED. Scratch feed, ton. 45.00. Oats, ton. 40.00 to 41.00. Wheat, ton. 46.00 to 48.00. Middling, ton. 38.00 to 39.00. Hay, wheat, ton. 24.00 to 25.00. Hay, alfalfa, ton. 23.00. Alfalfa meal, ton. 23.50.

The Territorial Marketing Division under supervision of the U. S. Experiment Station is at the service of all citizens of the Territory. Any produce which farmers may send to the Marketing Division is sold at the best obtainable price. A marketing charge of 5 per cent is made. It is highly desirable that farmers notify the Marketing Division what and how much produce they have for sale and about when it will be ready to ship. The shipping mark of the Division is U. S. E. S. Letter address Honolulu, P. O. Box 1235. Telephone Ewa corner Nuuanu and Queen Sts. Telephone 1840. Wireless address T E M A R K.

A. T. LONGLEY, superintendent.

WEEKLY MARKET LETTER

By A. T. Longley, Superintendent Territorial Marketing Division. Eggs scarcer and price advancing slowly, demand good. Poultry plentiful this week, market inactive. Hogs are bringing slightly better prices and there is a slight increase in demand. Good fat pigs, weighing from fifty to seventy-five pounds, should bring good prices around June 11.

Tomatoes are not so plentiful as last week and good stock is selling well. Watermelons are scarcer and higher. Good island Irish potatoes are selling well. Small and poorly graded stock plentiful and cheap. Red sweet potatoes in demand. The division has several orders for good bronze turkeys for breeding stock which it has been unable to fill. Any one having such stock for sale should notify the division.

Island onions are plentiful and cheap. A large quantity was recently received from Kauai. There are larger quantities on Maui yet to be marketed. As the producers did not notify the division of the amount of onions still to be sold, no bid was made for the army contract. It is to be hoped that local consumers will assist the home producers to dispose of their onions.

More green pineapples are being offered for shipment to the mainland than it is considered safe to send at this time. Considerable work has been done looking up dealers who will probably buy pineapples from us when an agent of the division begins work on the Coast July 1.

LEAGUE TO PROTECT
BABIES OF THE WAR

Prospective Mothers First Are Hunted Out and Then Care Is Given

LONDON, May 31.—The work of the War Babies and Mothers' League, which has officially reported more than 100 cases of soldiers' children born out of wedlock, is described in a report by A. James Hills, its secretary. He says:

"The girl is very shy in owning up, and it is only at the last moment when she is frantic and distracted that she takes someone into her confidence. Before the baby is born, we feed the mother if she needs it and we arrange other details if she is unable to do so. If she needs clothes for the baby, for herself or for her other children, we give them."

By other children, Hills explained that many of the women who have to be assisted lived before the war as the wives of men now in the trenches. In most cases, obstacles, military or otherwise, stood in the way of marriage. An Irish girl, a Catholic, said she could not induce her man, a Protestant, to marry in her church, and she refused to do so in his, so they did without. These couples live quite as respectably as those legally united.

"In the majority of cases," continued Hills, "it is simply a matter of a young girl and a young man choosing their heads when the man is going to the front. Generally the pair are engaged."

"We believe the government ought to pay these girls a regular separation allowance, such as is paid to wives of soldiers."

Besides providing food and watching over the mother, the League gives her sewing to do, if she is able to do it, in order to promote a spirit of independence. Where it is considered advisable, foster parents are found for the child and the mother is given a situation so as to make a fresh start in life.

The League has brought about the marriages of a number of couples. Marriages are not popular among the poor because of the expense. But with expenses paid, they are eager for the ceremony. The sum of \$2.50 is given for the license and a cheap wedding ring provided. It is significant that the men in the trenches in writing to the League always refer to their mates as wives. They seem extremely grateful for the assistance given these unfortunate, and they recognize their responsibility fully.

ARMY AND NAVY TEAMS
READY FOR BIG GAME

(Associated Press by Federal Wireless.)

WEST POINT, May 29.—The Army and Navy baseball teams will meet here this afternoon in their annual struggle for diamond honors. Nevada, the hero of twenty straight victories, will pitch for West Point, while McFall will be the hope of the Navy. Two of the National League umpires will handle the indicators.